

810-6-3-.41.01 Exemption for Certain Health Care Authorities.

(1) The term "health care authority" as used in this rule shall mean any public corporation organized pursuant to Article 11 of Chapter 21 of Title 22, Code of Alabama 1975, and any public hospital corporation reincorporated pursuant to Article 11 of Chapter 21 of Title 22, Code of Alabama 1975.

(2) The sale, purchase, use, storage, or consumption of tangible personal property used in the construction and equipment of any health care facilities for a healthcare authority, regardless of whether the sale is to the health care authority, its contractor, its subcontractors, or its agent, is exempt from state, county, and municipal sales and use taxes. (Section 22-21-333)

(3) The exemption in Section 22-21-333 applies to purchases of materials and equipment used in the construction of a new facility and in the construction of an addition to an existing facility. (AGO, Sessions, March 26, 1996)

(4) To qualify for the exemption in Section 22-21-333, the property purchased must become a part of the facility or the equipment of the facility or must constitute supplies or other items necessary for the day to day operation of the facility. Purchases of tangible personal property by the health care authority's contractor, subcontractors, or agent, when the property does not become a part of the facility or the equipment of the facility or does not constitute supplies or other items necessary for the day to day operation of the facility, are taxable. Examples of nonexempt items are diesel fuel and repair parts for construction equipment, hand tools, and consumable supply items used by the contractor, subcontractor, or agent.

(5) Notwithstanding the exemption outlined above, an individual, partnership, or corporation organized for profit that is or will be treated for federal income tax purposes as the owner of property to which a health care authority has title to, or a possessory right in, is liable for sales or use taxes as if the for-profit entity held title to the property unless the individual, partnership, or corporation would be entitled to use the property pursuant to a lease or other agreement entered into before May 21, 1992, or would be entitled to use the property at some future time pursuant to an inducement agreement entered into or adopted before May 21, 1992. For-profit entities, however, may qualify for abatements of certain sales and use taxes pursuant to Chapter 9B of Title 40 of the Code of Alabama 1975. ~~An individual, partnership, or corporation that is not organized for profit is not liable for sales and use taxes under Chapter 9B. Section 40-9B-7 only pertains to private users of private use property. Private user is defined in Section 40-2B-3 as "any individual, partnership, or corporation organized for profit that is or will be treated as the owner of private use property for federal income tax purposes."~~ Therefore, Section 40-9B-7 does not change the tax exempt status of a non-profit entity for sales and use tax purposes.

Author: Deborah Lee, Ginger L. Buchanan

Authority: Sections 40-2A-7(a)(5), 11-62-18, ~~40-9B-4, 40-9B-5, 40-9B-6~~, and 40-9B-7, 40-23-31, and 40-23-83, Code of Alabama 1975

History: New rule: Filed September 28, 1998, effective November 3, 1998.

Amended: Filed February 20, 2001, effective March 27, 2001.

Amended: Filed May 26, 2005, effective June 30, 2005.